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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,349	08/26/2003	Dennis Remmers	REMMERS SAWHORSE	4172
7590	12/14/2004		EXAMINER	
DAVID G. HENRY 900 Washington Avenue, 7th Floor P.O. Box 1470 Waco, TX 77603-1470			THOMPSON, HUGH B	
			ART UNIT	PAPER NUMBER
			3634	

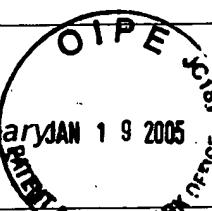
2 month

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Received (date) 12/17/04  
Docketed   
By AC (initials)

Office Action Summary JAN 19 2005



Application No.	10/649,349	Applicant(s)	REMMERS, DENNIS
Examiner	Hugh B. Thompson II	Art Unit	3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 September 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 3, it is unclear as to the number of leg members and restrictive support members being claimed. Note that Figure 1 clearly discloses two pairs of legs and a support member for each pair. As claimed, it appears that the support assembly has only two legs and a restrictive support member extending therebetween.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter #5,404,962. Carter discloses a collapsible sawhorse comprised of horizontal support beam 12, pivoting leg support means 42 that is pivotally attached to the beam, pivoting leg assemblies 22-23(1<sup>st</sup> pair), 24-25 (2<sup>nd</sup> pair), the assemblies being juxtaposed as best seen in shadow in Figure 3 and diverging from one another, i.e., extending in different directions in an expanded support as

best seen in Figure 1, a position pivoting spring loaded tab 55, and tab receiving aperture/notch 53, as best seen in Figure 4.

***Response to Arguments***

Applicant's arguments filed in the Amendment of 9-28-04 have been fully considered but they are not persuasive. It is clear to the Examiner that the applicant is claiming only one pair, i.e. two legs of the support assembly. However, the claim as written does not preclude the two pairs of legs, pivoting support means, and tab aperture of Carter "reading on" the recited claim language of claims 1 and 2. Specifically, the applicant clearly discloses a support assembly having identical end components. As the leg pairs are pivoted toward opposed ends of the support beam, they are indeed juxtaposed in a collapsed position. What the applicant does not claim in claim 1 or 2, is that each leg pair can be collapsed prior to this pivoted movement of each leg pair toward opposed ends of the support beam. Hinge strap 64, i.e., "a restrictive support member", provides this function, though not recited in claims as originally presented. The leg pairs of Carter are not precluded from being interpreted as the "first and second leg members attached to pivotal leg support means". Further, the applicant clearly has two pivotal leg support means at each end of the support beam, though it appears/is assumed that only one is intended to be claimed. It is suggested that the applicant clearly recite both pairs of legs, and that legs of one pair can be pivoted toward one another independent of and in addition to both leg pairs being pivoted to a juxtaposed compact or collapsed position. The Examiner agrees that the structure of the instant invention is structurally and functionally different from the collapsible support of Carter, however, those differences have not been properly claimed so as to patentably

distinguish from Carter. Were the applicant to properly claim those differences, the application would be in condition for allowance. Though not addressed in the prior office action, the applicant should be cognizant of tense and plurality issues when trying to claim legs and pairs of legs. Note claim 1, line 16, and the specification page 11, lines 12-17. Also in claim 2, "release" has been misspelled.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (703) 305-0102. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Hugh B. Thompson II*

Hugh B. Thompson II  
Primary Examiner  
Art Unit 3634

December 9, 2004